

SLAVERY, MANU AND HUMAN RIGHTS

P. C. SAHOO

The institution of slavery is known as the practice of bonded labour. It existed in almost all ancient and mediaval civilizations of the world for centuries together. Being accepted as a system of labour it continued with all its inhumanity as the most naked form of exploitation of man by man. The intensity of cruelty in this system was not the same all over the world as it varied according to various religious, social, political and economic conditions of different civilizations at different parts of the world. There can be no fixed date for its origin nor any single factor can be held as solely responsible for its continuance in the society. According to A.K. Chattopadhyāya "In India as elsewhere slavery originated from the earliest laws of the wars. The vanquished is the victor's slave; such is the law of war." ¹ But this may be one of the factors leading to the system of slavery as evident through the various categories of the same found in ancient Indian texts. In ancient India its picture was not very much different. It was a part of society from the time immemorial. So far the treatment towards the slaves is concerned, as opined by various scholars, ² the condition of slaves in India was better than some other ancient civilizations of the world. Treatment towards the slaves was never absolutely inhuman throughout the history of ancient and mediaval India.

There are innumerable references found in Sanskrit, Pāli and Prākṛit

Literature conforming its existence starting from the Vedic age up to the British period. Such references along with some modern literary evidences throw light on its varieties, characteristics, regulations and restrictions up to its legal abolition during the British rule in India. ³ Dharmaśāstras do recognize and discuss on slavery as prevailed in those days in this part of the Globe. Their discussion reflects on the over all condition of the slaves, views of some social thinkers of the past on various aspects of the system etc. A slave was called dāsa, a female slave was dāsī and the system was known as dāsyā or dāsatva. Dāsyā was dealt in all major law books of ancient India. The Manusmṛti being the foremost of all has dealt with the same briefly in its 8th Chapter (8.412-417). In this paper discussion will be limited only to the Manusmṛti taking in to account the opinions of some of its commentators and aiming at finding out to what extent the Human Rights and Human Values, as one understands to day, were taken care of.

The Human Rights are some basic rights granted by the State to the individuals by virtue of their being the member of human family irrespective of any other consideration. The importance of such rights were felt seriously during the last century. Being awakened and encouraged by the democratic atmosphere spreading over all parts of the world some liberal political thinkers and constitutional authorities realized that such rights are

essential for individuals through which an atmosphere of freedom and self dignity can be provided to the masses in order to help them developing their personality to the fullest extent which would further lead to the over all wellbeing of the entire mankind. As a result in addition to some fundamental rights granted to their citizens by many constitutional governments of Independent States, the General Assembly of the United Nations adopted the Universal Declaration to Human Rights (UDHR) on 10th December, 1948. A number of HRs are included in this declaration. The UN also enacted two International Covenants on 16th December 1966 and 15th December 1989 on economic, social and cultural rights as well as on civil and political rights respectively.⁴ Some such rights which become relevant to the present context on slavery will be referred to in the following lines from the Fundamental Rights of the the Indian Constitution (IC) and the Universal Declaration of Human Rights (UDHR) adopted by the General Assembly of the United Nations.

However, in ancient India, especially at the time of the compilation of the Dharma Śāstras the idea of Human Rights was not fully developed. These were neither thought of seriously nor were cultivated thoroughly as one finds now a days. It was obvious that the ancient Indian Law dealers themselves were the products of the then prevailing religious, social, economic and political conditions. To expect them to formulate or deal with laws which would bear relevance after thousands of years is illogical as well as impractical. According to the then prevailing situations the Law makers might have tried their best to hold their

judgment impartial keeping an over all welfare of the mankind in their view. During their engagement with the course of Law they tried to protect the Universal values of life in general and the human values in particular.

During the time of Manu slavery was already an established system of Labour as is evident from some of the stanzas in the text. Without an introduction to slavery the text imposes punishment on a Brāhmaṇa who makes any individual from the three higher castes a slave. If any Brāhmaṇa by the urge of his greed or by the virtue of his being more powerful or influential makes the persons of twice born categories as slaves even though they are not willing to become, then the king should punish that Brāhmaṇa with a fine of six hundred paṇas.⁵ But for the individuals belonging to the śūdra community the text allows a Brāhmaṇa to accept them as slaves. Thus one reads in the verse no-413-śūdrām tu kārayet dāsyam kṛitamakṛitameva vā / dāsyāyaiva hi sṛṣṭosau brāhmaṇasya svayambhuvā// Which means whether bought or not bought, the śūdra should be made a dāsa because the creator, the self born one, has created śūdra to become slave of a Brāhmaṇa. There are two types of slaves as suggested in this verse some are bought and some others are not bought but made slaves under different conditions and circumstances. Thus the entire community of śūdra is thought to be fit for becoming slave to others because of their birth in that community and the same is attributed to the wish of the creator himself. Again in the next verse, Manu Sm. 8-414 it is said that even if a śūdra is made free from the service of a master one should not

consider this as his absolute freedom from dāsya because servitude remains in him as an integral part of his nature or it is one of his basic tendencies to serve others from which none can actually dissociate him⁶.

While commenting on this verse Kullukabhatta mentions that if an individual of śūdra community being captured in the battle or by any other means is made a slave and later on the master grants him freedom from his service he becomes apparently released from the service of that particular master but he should always remember that being śūdra his inborn duty is to be always at the service of the twice born communities. And this sort of engagement is for the sake of acquiring some unforeseen merits for himself⁷. Both the text and commentary have recorded the view that a śūdra should not be given absolute freedom from his service towards others. As a slave he is denied the freedom for developing his personality independently at his will. Such a restriction goes against the individuals right to liberty, as is known at present and accepted in the Article -21 in IC as well as Art. 3 in the UDHR adopted by the UN.

In the next stanza there is a mention about seven types of slaves dhvajāhṛto bhaktadāso gṛhajaḥ Krītadatrimau / Paitriko daṇḍadāsaśca saptaite dāsayonayaḥ // (Manu Sm. 8.415). Here dhvajāhṛta means captured under banner or an individual belonging to the defeated group in a war captured by the victor and made a slave ; bhaktadāsa stands for an individual who accepted slavery for getting food to survive; Gṛhaja is one who is born in the house, i.e. born of a slave girl by the master; Krīta is understood as a slave who is bought by one master for a price;

by datrima it means a slave who is given as a gift or for some religious merit by one master to another; paitrika stands for a slave who belongs to the family of slaves or who has come as a slave to the present master from the latter's father, grandfather or earlier ancestors; by daṇḍadāsa one understands a person who being unable to pay the amount of fine imposed on him by the law or the king accepts slavery on his own or made to work as a slave in order to repay the amount by his service. While commenting on this verse Medhātithi raised an objection that in case of a śūdra serving the twice borns wholeheartedly considering this as his moral duty can form another category of slaves and there would have been eight instead of seven. Then he refuted his own objection in the following manner, In case of such a devoted person, slavery, is not innate in him, as his service is quite voluntary and with an intention to acquire religious merit⁸.

Thus a śūdra who is scrupulous and serves others being prompted by his own conscience can not be treated as any ordinary slave like the above seven categories. Since he does not fall in to any group of slaves he should not be made subject to any commodity type of treatment such as to be sold, to be given as gift or kept as pledge etc. In this context there is a recognition of human value reflected within such an individual in the form of complete devotion towards one's duty (svadharma) irrespective of personal gain or loss, pain or pleasure. Having recognized him as a noble soul, even if by birth he is a śūdra and liable to be treated as a slave, the commentator prescribed to withhold all types of contemptuous behaviour towards him⁹.

On the other hand dealing with an individual as if he or she is a commodity or an article of trade is usually considered, now a days, as a degraded behaviour. An ordinary slave when sold to another master or given as a gift to another individual or deposited as a security, certainly goes down on his self respect. His reputation as a human being is reduced and denied. It becomes a fit case of violating one's right to freedom from degrading treatment enforced by the IC-Art.17 as well as UDHR, Art.5 adopted by the UN.

So far a slave's ownership over property is concerned it is prohibited by saying that a slave does not possess any property of his own and whatever he acquires belongs to him to whom he belongs, i.e. the master. One reads in Manu Sm.8.416-bhāryā putraśca dāsaśca traya evādhanāḥ smṛtāḥ / yatte samadhigacchanti yasya te tasya taddhanam //

Raghavananda commenting on this verse mentions that as the entire acquired wealth belongs to the master without his permission the slave can not utilize the same as long as the master is alive ¹⁰. According to Nandana, another commentator, as long as the master remains alive a slave does not possess ownership over his acquired wealth but after the master's death he becomes the owner ¹¹. The text further elaborates on this topic that a Brahmana may confidently have recourse to seizing the goods of a śūdra as his property is meant to be seized by his master ¹². Here though the word dāsa is not used in the text it is to be understood from the word śūdra it self as the commentator Raghavananda mentions "visrabdham kṛtaviśvāsam yathāsyāt tathā śūdrāt saptavidhadāsāt dravyādānam

ācāret." It is clearly suggested by these discussions that a śūdra / dāsa did not have the fundamental right to have property as his own in those days and whatever he used to earn the entire amount was going to the account of his master ¹³. Thus a slave here is denied his right to own property which in present context goes against a sanction by the Act. 300 (A) of the I C as well as the Act. 17, UDHR, adopted by the UN.

In this context one may consider another stanza elsewhere in the text according to which a son born to a śūdra from a female slave or a female slave of a slave is permitted to receive a share (of the wealth). Thus one reads in Manu Sm. 9.179- "dāsyām vā dāsa dāsyām vā yaḥ śūdrasya suto bhavet / sonujñāto haredamśam iti dharmo vyavasthitaḥ."

This suggests that a śūdra who owns some property for himself he can permit a son of his from a female slave to get a share from his property. This is not allowed in case of a Brāhmaṇa or any non-śūdra if he begets a son through a female slave. Such a prescription contradicts the view expressed in the verses no 416 and 417 of the 8th chapter which denies a śūdra's ownership over property.

If a slave commits a mistake the master is instructed to punish him by beating but not violently. According to Manu Sm. 8-299 and 300, the wife, the son and the slave should be beaten with a rope or with a split bamboo when they have committed any fault and they are to be beaten only on the back part of their body and never on their upper part. If any master strikes a slave violently without following this instruction he incurs the guilt of a thief ¹⁴. To a slave this is a very simple punishment in order to teach him a lesson so that

he would not commit such mistakes in future. In comparison with punishments given to the slaves in other parts of the world such a punishment is really mild in nature and might have been prescribed out of humanitarian considerations. In other countries the slave masters of the past used to deal with their slave mercilessly. For any kind of trivial mistakes of theirs the slaves used to undergo with all sorts of torturous punishments in European, African and American countries ¹⁵. In this case the Indian law makers of the past once again have shown their concern over upholding the Human Values while prescribing punishments for the slaves even by going to the extent of finding fault with the slave masters who dared to disobey such humanitarian instructions while punishing their slaves inhumanly. The same instructions may also come under the protection of Human Rights specifically the rights to freedom from torture sanctioned in the I C, Art.17 as well as UN adopted UDHR, Art.5.

Coming to the conclusion it can be simply said that with reference to the ancient system of slavery the text of ManuSmṛti has very little to do with present days Human Rights. There was not even any condemnation against this practice throughout the text nor any commentator has expressed any dislike towards the same. Though in few cases it is felt that the instructions stand to deny the present days human rights granted to the individuals, in some other cases it is also found that there used to be a conscious effort by the Law makers to uphold human values whenever and wherever it was possible on their part to formulate prescriptions in this regard.

Foot Notes and References

1. Cf. Chattopaddhyaya A K. Slavery in India, Calcutta-1959, Preface P.3
2. One may refer to the following books in this regard-Chanana D.R. Slavery in Ancient India, Delhi – 1960; Chattopaddhyaya A.K., Slavery in India, Calcutta-1959; Kane P.V. History of Dharmaśāstras, Vol-2, part-1, Pune- 1941, P.183.
3. Slavery was abolished legally in India by the British rulers by the Act V of 1843, cf. History of Dharmaśāstras, P.V. Kane, Vol.2, part 1, P. 180, Pune- 1941.
4. These details are given here following the article by Manmohan Acharya, 'Concept of Human Rights in Vedic Tradition'. Proceeding of the World Sanskrit Conference (2001) New Delhi – 2007, Vol. 5, P.227-228.
5. dāsyam tu kārayan lobhāt brāhmaṇaḥ samskr̥tān dvijān / anicchantaḥ prābhavatyāt rājñā daṇḍyaḥ śatāni śaṭ // (Manu Sm. 8.412)
6. na svāminā niṣṛṣṭopi sūdro dāsyāt vimucyate / niḥsargajam hi tat tasya kastasmāstadapohati // (Manu Sm. 8.414)
7. tasmāt dāsyam sūdrasya saḥajam..... adṛṣṭārthmavaśyam sūdreṇa brāhmaṇādīdvijaśuśrūṣā kartavyā (Kulluka on Manu Sm. 8.414).
8. naiṣa doṣaḥ, na tasya autpattikaṁ dāsatvam, icchādhīnatvāt dharmārthinaḥ (Medhātithi on Manu Sm. 8.415).
9. na hi tasya dānādhānakriyā yujyate, krītagr̥hajādi dāsavat (Medhātithi on Manu Sm. 8-415).
10. tasmin jīvati tadanujñām vinā dhanavyaye nādhikāraḥ - (Raghavananda on Manu Sm. 8.416).
11. svāmiṣu jīvatsu adhanāḥ ajīvatsu sadhanāḥ (Nandana on Manu Sm. 8.416).

12. visrabdham brāhmaṇaḥ śūdrāt
dravyopādānamācāret / na hi tasyāstikiñcit
svam bhartṛhāryodhano hi saḥ // (Manu
Sm. 8.417).
13. In support of this view one may refer
to another verse in the Manu Sm.
10.129-śaktenāpi hi śūdreṇa na kāryo
dhana sañcayaḥ / śūdro hi dhanamāsādyā
brāhmaṇāneva bādhatē//
14. bhāryā putraśca dāsaśca.....
prāptāparādhāstādyās syuḥ rajjivā
veṇudaṇḍena vā// pṛṣṭhatastu śarīrasya
nottamāṅge kathañcana/atonyathā tu
praharan prāptaḥ syāt caura kilbiṣam//
(Manu Sm. 8.299 and 300).
15. .For more informations one may refer to
“Slavery in Ancient India” by Chanana
DR, Delhi-1960; “Sleavery in India” by
Chattopadhyaya AK, Calcutta. 1959; and
for comparison with the treatment given
to the slave in ancient India see History of
Dharmasastras, by PV Kane Vol.2, Part-1,
Pune-1941, P.183.